UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1310
3 May 1999

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1310th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 4 March 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth and fourteenth periodic reports of Finland (continued)

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-THIRD SESSION

Effective implementation of international instruments on human rights: Functioning of treaty bodies

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.99-40755 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4)

Thirteenth and fourteenth periodic reports of Finland (continued) (CERD/C/320/Add.2; HRI/CORE/1/Add.32)

1. At the invitation of the Chairman, the members of the Finnish delegation took places at the Committee table.

2. The CHAIRMAN gave the floor to two of the Committee's experts who wished to make comments to the Finnish delegation before the latter replied to the questions already raised.

3. Mr. DIACONU welcomed the fact that the Finnish Penal Code condemned genocide, which it defined more precisely than the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. He also welcomed the fact that it was a punishable offence to practise racial discrimination in the services sector or to place any person in a situation of inequality or inferiority on grounds of race or national or ethnic origin. Such a measure was quite rare in the legislation of States parties to the Convention.

4. Two other extremely positive points concerning the struggle against racial discrimination in Finland were the establishment of a large number of advisory boards, such as those for refugees and immigrants and for the Sami and the Roma, on which the communities concerned were represented, and the existence of a large number of civilian associations, such as the Red Cross, the churches, sporting organizations, journalists' associations and the media, which were involved in the campaign against racial discrimination. Although all those activities still needed to be coordinated more effectively, it had to be acknowledged that Finland had endowed itself with an appropriate framework to combat racism.

5. The main problem with which the Sami were faced was that of land rights, since the Sami contested the State's claim to ownership of forest areas. That dispute should be settled through negotiations with due regard for the interests not only of the Sami but of society as a whole. That would enable Finland to become a party to the International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries. He also believed that the adoption of a legislative enactment remained the best way to define the Sami people.

6. The situation of the Roma in Finland was still causing concern. That population was suffering from a higher-than-average rate of unemployment, as well as difficulties of access to housing. The Parliamentary Ombudsman and the police seemed to be doing nothing to eliminate discrimination against them. In that regard, he referred to the case of a municipality in which an official had rejected a housing application submitted by a family of Roma. In a decision of 26 September 1996, the Ombudsman had explained that he had refused to institute legal proceedings because "the decision of that municipal official was based mainly on his deep-seated conviction that the family would cause disturbances in the neighbourhood due to its Romani origins". However,

it was precisely that prejudice that concerned the Committee because it bore witness to a tendency to discriminate against the Roma and Governments everywhere had an obligation to combat such tendencies. If that case were submitted to the Committee under the terms of article 14 of the Convention (consideration of communications from individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in the Convention), the Committee would undoubtedly conclude that such prejudice constituted an act of racial discrimination.

7. The report indicated that refugees and immigrants did not complain to the police because, in their countries of origin, they had no confidence in the authorities. The problem was whether, in Finland, those persons had confidence in the police. What were the authorities doing to establish and increase confidence among those populations?

8. With regard to the question of acquisition of nationality, he recalled that, under the terms of article 1, paragraph 3, of the Convention, "Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality". That meant that, although States could regulate the question of acquisition of nationality at their discretion, they should not discriminate in that field. Finnish legislation in that regard should therefore be reviewed in the light of the Convention.

9. Mr. SHAHI said that the report contained a wealth of information, thereby testifying to the evident desire of the Finnish authorities to implement the various provisions of the Convention to a larger extent. He emphasized that the report indicated the following: "The Sami Thing (Sami Parliament) shares the concern of the Committee on the Elimination of Racial Discrimination concerning the Sami land rights and is presently looking into the matter. The Government, which has not yet adopted a political programme on the Sami land rights, has nonetheless requested the Sami Thing to propose a solution to the problem" (CERD/C/320/Add.2, appendix II, para. 20). The Committee therefore hoped that that situation would be regulated before the consideration of Finland's next periodic report and that it would be kept informed of the legislative and other measures taken to enable the Sami to enjoy their land rights.

10. He also reminded the delegation that, in a general recommendation on the rights of indigenous peoples which was adopted on 18 August 1997 (A/52/18, annex V, para. 4 (c)), the Committee had called in particular upon States parties to "provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics". As many other indigenous communities had pointed out, the cultural characteristics, and more specifically the identity, of indigenous peoples were closely linked to the land. Under the terms of that recommendation, the Committee had also especially called upon States parties to "recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands" (ibid., para. 5). He hoped that, when Finland

presented its next periodic report to the Committee, a satisfactory solution would have been found to the question of the land rights of the Sami people. Since they numbered only 7,000, it should not be too difficult to solve that problem.

11. Mr. AARNIO (Finland) said that the total number of Sami living in the Nordic countries and in the Russian Federation ranged from 70,000 to 100,000. Of the 6,900 to 7,000 living in Finland, the majority (4,000) could be found in Lapland. There were about 1,000 Sami in Helsinki. The question of the definition of the Sami people was problematic because the Sami themselves feared that a broader definition would be tantamount to a forced integration of their group. The Electoral Commission of the Sami Parliament had recently rejected 1,124 applications from descendants of Lapps wishing to have their names added to the electoral register for elections to the Sami Parliament. It had accepted 436 applications on the basis of the linguistic criterion. Those whose applications had been rejected could appeal and the authorities were expecting a large number of such appeals. Although the Government could in no way comment officially on the decision that had recently been taken by the Electoral Commission of the Sami Parliament, he personally thought that the principal question that would have to be settled was the scope and content, in international law, of the right of indigenous peoples to choose their representatives freely.

12. With regard to the right of the Sami to the lands that they had traditionally occupied, the Ministry of Justice was currently preparing a draft solution that would soon be presented to the Minister of Justice. His delegation could say nothing about the content of that text but could nevertheless give an assurance that the Government's aim was to settle the question of the land rights of the Sami and to ratify ILO Convention No. 169 in the near future.

13. His delegation had taken careful note of the Committee's concerns regarding indigenous peoples, as well as the recommendation on the rights of indigenous peoples to which Mr. Shahi had referred.

14. Concerning the question of which groups in Finland were covered by the Council of Europe Framework Convention for the Protection of National Minorities, he said that Finland regarded national minorities as being the Swedish-speaking population, the Sami people, the Roma, the Jews, the Tatars and the Russian population which first settled in Finland in the eighteenth century.

15. In response to the question raised by Mr. Sherifis, the Rapporteur for Finland, concerning the participation of immigrants in municipal elections, he explained that the groups of aliens were normally too small to effectively form associations of voters. However, that situation was gradually changing and, for the forthcoming legislative elections, all the political parties had included immigrant candidates on their list.

16. He acknowledged that, with regard to freedom of association, a distinction that could no longer be justified was still being made between the rights of Finnish citizens and those of aliens. He gave an assurance that his delegation would inform the country of the concerns to which that question was

giving rise on the Committee. At all events, Parliament was currently considering a bill of law that penalized participation in criminal, and particularly racist, organizations.

17. In accordance with an ancient Nordic tradition, the Ministry of Justice was currently responsible for ensuring respect for the law concerning freedom of the press. That arrangement would soon be changed since the Finnish Committee on Freedom of Expression had proposed, in a report submitted in February 1997, that the decision as to whether proceedings should be instituted in respect of the content of an article should lie with the Attorney-General. The right to institute proceedings against written publications would likewise be exercised by the Attorney-General and no longer by the Ministry of Justice.

18. In response to the question raised by Mr. de Gouttes, who wished to know whether, in Finland, penalties could be increased if the motive of the offence was racist, he indicated that members of Parliament, and not the Government, had tabled a bill of law to that end but it had not been possible to take a decision thereon before the closure of the legislative session. However, that question would be tackled within the framework of the current process of overall reform of the Penal Code.

19. Mr. RYTOVUORI (Finland) said that his country had already begun preparations for the organization of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which was due to be held in the year 2001 at the latest. At the national level, the main aspects of the preparatory process were being studied by the Finnish Preparatory Committee against Racism, Xenophobia, Anti-Semitism and Intolerance. No decision had yet been taken concerning the possibility of funding non-governmental organizations, although the Government intended to ensure that the NGOs participated fully in the national preparations for the Conference. At the regional level, Finland had taken part in the first meeting of experts organized by the Council of Europe 15 days earlier within the framework of the European preparatory process. Finland also intended to participate actively in the deliberations of the Ad Hoc Working Group established by the Commission on Human Rights to study that question, which was due to meet during the Commission's next session. Last December, Finland had also contributed US$ 28,902 to the Trust Fund for the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (1993-2003). According to the High Commissioner for Human Rights, although Finland had not contributed to that fund in recent years, that contribution had made it the largest donor. That amount had been specifically allocated to the preparations for the World Conference.

20. Mr. CORTES TELLEZ (Finland) said that, in February 1997, his Government had published its first governmental plan of action to combat racism and promote tolerance at the administrative level. That plan of action had made it possible, inter alia, to take positive measures to considerably increase the training that civil servants received in the field of ethnic relations and racism and also to promulgate new legislation guaranteeing the rights and obligations of the children of immigrants. Numerous special organizations had been established to provide protection against discrimination and the police

had issued new instructions to be followed in the campaign against racism. That plan of action had also made it possible to increase the aid allocated to the NGOs that were implementing programmes to combat racism.

21. With regard to the police, in June 1997 the National Police Directorate at the Ministry of the Interior had issued specific instructions under which police officers were obliged to automatically investigate racially motivated crimes, to provide special protection for minorities and to cooperate more closely with ethnic minorities at the local level. Police officers were also attending training courses on questions of racism and racial discrimination. While acknowledging the fact that the passports of applicants for residence permits were retained throughout the period of examination of the files, he emphasized that they could be returned to applicants who needed to travel.

22. Mr. LAAKKONEN (Finland) provided some details concerning the Finnish system to combat racial discrimination based on ethnic origin. Last October, the Ministry of Labour had established a special steering group to monitor discrimination not only against new immigrants but also against traditional ethnic minorities in all sectors of society. That group consisted of representatives of five ministries and of the Finnish League for Human Rights, as well as the Ombudsman for Aliens. Consequently, there was effective interaction between the Administration and civil society.

23. In the spring, the jurisdiction of the Ombudsman for Aliens would be redefined and expanded and that mediator would subsequently be known as the Ombudsman against Ethnic Discrimination. The system would be fully operational as soon as the appropriations had been approved by the Government installed following the parliamentary elections next April.

24. The shadow report of the Finnish League for Human Rights had omitted to mention the existence of a governmental organization, namely the Advisory Board for Good Ethnic Relations in Finland, which was actively tackling problems of integration and the proposals of which often led to amendments to Finnish law. It was on the initiative of that Board that immigrants had been granted the right to vote in local elections.

25. Within the framework of the campaign against ethnic discrimination, measures were also being taken in the field of housing and, in particular, low-cost housing which posed a very severe problem in some districts of Helsinki. In two months' time, a new enactment on the integration of immigrants would place municipalities under an obligation to take action to combat all forms of discrimination in the housing sector.

26. With regard to citizenship, he acknowledged that nationals of Nordic countries could obtain Finnish nationality after only two years while nationals of other countries had to wait five years (three if they were married to a Finnish citizen). That difference in treatment was attributable to the long tradition of cooperation and solidarity among the Nordic countries, which had established a common market in 1954 and had been operating a common social security scheme since 1955. That particularity was due to be discussed by the European bodies in which the question of dual nationality was to be considered.

27. Finally, with regard to the status of the Roma who had come from former Yugoslavia, most of them had arrived in Finland with about 2,000 other refugees with whom they enjoyed equal status.

28. Mr. KOSONEN (Finland) returned to the question of safe countries of asylum which had already been raised, with regard to Finland, in 1996. As indicated in paragraph 122 of the report, "In the Decision-in-Principle for the Government Programme on Immigration and Refugee Policy the Council of State had decided to abandon the listing of safe countries of origin and to include only safe countries of asylum in the lists of safe countries. The list of safe countries of asylum to be established would include only countries which met certain criteria. The list and its revision would be decided on by decree."

29. The criteria to be met by safe countries of asylum had been defined in a draft amendment to the Aliens' Act (art. 33 (a)), which had been adopted quite recently. Under that provision, safe countries of asylum were regarded as being countries which had acceded without reservation to the conventions concerning the status of refugees, which were complying with those conventions, which were applying the International Covenant on Civil and Political Rights and the Convention against Torture and which, in general, respected human rights.

30. However, the Constitutional Council held the view that the list of safe countries of asylum could not be drawn up by decree since such a text could be used only to prescribe certain minor technical application procedures. That list could be drawn up only in a legislative enactment. No legislative text having so far been proposed, there was a sort of juridical vacuum although the Administrative Commission of Parliament had clearly indicated in its report that the safe countries of asylum included, at the very least, the countries of the European Union, Switzerland, the United States, Australia, Canada, Japan and New Zealand, the expression "at the very least" signifying that the list was not limitative. The criteria laid down in article 33 (a) were therefore already being applied in practice.

31. With regard to the Sami people, many of the cases referred to in the report of the League for Human Rights were still pending and it would be inappropriate to discuss them at the present stage. However, in the light of a previous case that had been brought before the Human Rights Committee, reindeer husbandry had been recognized as one of the fundamental elements of Sami culture and that minority was perfectly able to enforce its rights not only before the national tribunals but also before international bodies. However, in another case on which it had expressed an opinion, the Committee had declared that activities which had only a limited impact on the lifestyle of the Sami did not necessarily constitute a denial of their rights under the pertinent international conventions.

32. It should also be noted that the various cases concerning the Sami had made it possible to establish, in the field, a consultative process that was currently bearing fruit. For example, in the reindeer pasturage areas, the Finnish Parks and Forestry Board was taking care to construct only highways, of limited width, that were strictly necessary.

33. Mrs. HAGELSTAM (Finland) replied, first of all, to the question raised by Mr. Sherifis concerning family reunification. As Mr. Kosonen had already explained in his statement, an amendment to the Aliens' Act had recently been adopted by Parliament. Under those new provisions, it would be possible to obtain a residence permit on the grounds of links of kinship or the need for family protection.

34. The translation of the human rights instruments mentioned in the report had been completed in 1997. The European Charter for Regional or Minority Languages had been translated into northern Sami and the possibility of also translating the human rights conventions into the Romani language had been considered, taking into account the concerns that the Committee had expressed in that regard.

35. In response to the question raised by Mr. Sherifis concerning the dissemination of information on the International Convention on the Elimination of All Forms of Racial Discrimination, she said that the Convention had been published in 1997 in Finnish, Swedish and English in the series of publications of the Ministry of Foreign Affairs with detailed explanations of the individual recourse procedures provided for in article 14. The periodic reports that Finland had submitted to the Committee, together with the latter's conclusions and recommendations, had also been published in the same series and widely distributed to public administrative departments and to all other parties concerned. The periodic reports and the Committee's conclusions and recommendations would also soon be available on the Internet.

36. Mr. YUTZIS thanked the Finnish delegation for its highly informative replies, which had helped to clarify some points. However, without wishing to question the Finnish Government's desire to apply the Convention, he had three comments to make.

37. In paragraph 218 of the periodic report of Finland, it was stated, for example, that "a foreigner who intends to engage in remunerated employment in Finland is obliged to have a work permit". However, it added that "this is not required of a citizen of a State belonging to the European Economic Area (EEA)". He would like to know who had established that distinction and for what reasons, since such a measure had consequences. As noted in paragraph 212, "In spring 1996, about 50 per cent of all immigrants were unemployed, with the rate for Finns being over 17 per cent. In some groups the unemployment rate was 80-90 per cent". However, everyone knew that employment, quite apart from providing a livelihood, was also a factor in integration. Unemployment had an influence on the personality and state of mind of the persons affected and, in particular, had repercussions on criminality. In a juster, but undoubtedly Utopian, world the respective unemployment rates for Finns and aliens should be more balanced.

38. A second point concerned the explanations that Finland had given on the question of countries of asylum. If he had understood correctly, it had finally been decided that the list of safe countries of asylum could not be drawn up by decree. However, the representative of Finland had added that the safe countries of asylum were the countries that had signed the human rights conventions. It remained to be determined whether those conventions were applied in practice. Although he did not have at hand the text of the new

article 33 (a), which was apparently now applicable, it seemed to him that, as long as the list mentioned in paragraph 122 had not been drawn up nominally, there could always be mass expulsions. In that regard, he referred to the case mentioned in the report of the Finnish League for Human Rights concerning Somali refugees.

39. His final comment concerned the Sami people. Paragraph 81 of the report stated that: "In 1994 it was proposed in the Government Bill (on the Sami Thing) that the definition (of the Sami) be made broader". However, the Sami did not seem to have been consulted on that question since paragraph 82 admitted that "the extended definition of a Sami has proved to be problematic" and "the Sami Thing, the Sami Council, the Advisory Board for Sami Affairs, the provincial government of Lapland and ... representatives of the scientific community, among others, demand that the definition be restricted". Paragraph 84 stated, once again, that it was the Ministry of Justice - and not the Sami themselves - which had decided in January 1997 to take measures to relink the Sami identity with knowledge of the Sami language. That text should be compared with one published in October 1998 by the Sami Parliament in which the latter indicated that the members of a group of Finns had systematically opposed Sami cultural autonomy. They were exploiting the very broad definition of a Sami in order to declare themselves Sami and were attempting to dominate the Sami Parliament on the basis of that broad definition and the advantages that the Sami people enjoyed. They were supported by a handful of members of Parliament representing Lapland. In view of the fact that the electoral campaign for the forthcoming parliamentary elections in Finland was being launched, the Government seemed ready to turn a blind eye to those anti-Sami activities by declining to modify the definition of a Sami. That decision had been taken without any discussion in the Government. As a result, the Sami felt that their status was being threatened. He would like to know how the situation stood at the present time. Since the Government was still taking measures without consulting the Sami people, the controversy would probably continue. Texts should be adopted to clarify the situation and re-establish a stricter definition of the Sami under which they would enjoy effective legal protection. He hoped that the goodwill that the Finnish delegation had shown in that regard would produce results.

40. Mr. BANTON, referring to the question of the definition of a Sami, said that he was satisfied with the reply given by the Finnish delegation. However, he wished to clarify some points. First of all, in his previous statement he had merely wanted to point out that, if the law protected Sami reindeer herders, that did not mean that all the Sami were protected since they were not all engaged in that activity. Consequently, that could give rise to a conflict of interests between the Sami herders and others, in contrast to the Swedish system under which reindeer herders were protected as an economic group.

41. With regard to the land dispute in the Lemmenjoki National Park, he was reassured to know that the highway crossing that national park was a forest road. The fact remained that it disrupted the pasturing habits of animals in that area. He therefore wished to know whether measures had been taken to remedy that problem. He noted, with regret, that the report said nothing about the type of arrangements that had been made to resolve such conflicts of interest, about the bodies responsible for settling those disputes or about

the composition of those bodies and their powers to award compensation. He therefore invited the delegation to reply on that point either during the present meeting or during the consideration of the next report.

42. Mr. LAAKKONEN (Finland), replying to a previous question, affirmed that refugees did not need a work permit in Finland. With regard to the rate of unemployment among aliens which, although declining, was higher than that among Finns (38 per cent as compared with 30 per cent), he said that, in most cases, it was attributable to a linguistic problem since persons who spoke neither Finnish nor Swedish found it more difficult to obtain employment. However, a new enactment, concerning the integration of immigrants and the reception of asylum seekers, which had recently been approved by Parliament was due to enter into force on 1 May or 1 September 1999 and should establish a certain balance between the rights and obligations of immigrants. He also indicated that a mixed body, consisting of members of the public authorities and social partners, was due to be established in the near future to look into those questions and a study on discrimination in the labour market was to be published in the autumn of 1999.

43. Mr. KOSONEN (Finland) referring to the list of "safe countries", said that the eligibility criteria for countries, namely their respect for the provisions of the Convention relating to the Status of Refugees, the International Covenant on Civil and Political Rights and the Convention against Torture, were, in effect, very restrictive and that list was due to be revised.

44. The last sentence of paragraph 122 of the report (CERD/C/320/Add.2) should also be rephrased since it was apparently causing confusion.

45. Replying to Mr. Banton's question concerning the procedure applied in the event of conflicts involving the land rights of the Sami, he said that, in accordance with the recommendations of human rights bodies, the National Forestry and Parks Board usually consulted the Sami when decisions needed to be taken concerning their lands. However, in the event of a dispute, there was no procedure other than the normal legal recourse. The fact that the Sami did not own the lands on which they lived in no way affected their rights.

46. Mr. AARNIO (Finland), wishing to clear up any misunderstanding concerning the question of the definition of a Sami, said that the decision to expand that definition had been taken jointly with the authorities of the Sami people, as stated in paragraph 81 of the report (CERD/C/320/Add.2), and the problem arose from the fact that Parliament had adopted that proposal without taking into account the date of 1875. Subsequently, the Sami Parliament and the non-Sami population living in Lapland had entered into negotiations with a view to restricting that definition. Those negotiations had not been successful. The Finnish Prime Minister had therefore decided to wait for the September 1999 elections before reconsidering the problem.

47. Mr. SHERIFIS (Rapporteur for Finland) commended the Finnish delegation for its detailed report, its spirit of cooperation, its open-mindedness and the competence of its members. Among the positive points, he mentioned the Government's decision to review the list of "safe countries", the willingness to accede to ILO Convention No. 169, the appointment of an Ombudsman against

Ethnic Discrimination to replace the Ombudsman for Aliens, the new legislation on the integration of immigrants and the reception of asylum seekers which would soon enter into force, the amendment in favour of family reunification and the adoption, in October 1997, of the Decision-in-Principle of the Council of State for the Government Programme for Immigration and Refugee Policy.

48. On the other hand, there were some fields in which further efforts needed to be made, particularly in regard to the situation of the Sami, the Roma, indigenous peoples, immigrants and refugees, the land rights of the Sami which should be established without further delay and the question of racist organizations on which Finland had made no progress since the consideration of its previous report.

49. In conclusion, he called upon Finland to disseminate as widely as possible the principles, aims and provisions of the Convention since, if it was important for citizens to have rights, it was equally important that they should be aware of those rights. He welcomed the progress made since the last dialogue with Finland.

50. The CHAIRMAN, in turn, congratulated the Finnish delegation on the quality of its report and its statements. He said that the Committee had thereby concluded its consideration of the thirteenth and fourteenth periodic reports of Finland.

51. The Finnish delegation withdrew.

The meeting was suspended at 12.05 p.m. and resumed at 12.10 p.m.

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-THIRD SESSION

Effective implementation of international instruments on human rights: Functioning of treaty bodies (agenda item 6 (b))

52. At the invitation of the Chairman, Mrs. A. Bayefski, Professor at York University (Canada), and Mr. C. Heyns, Professor at the University of Pretoria (South Africa), took places at the Committee table.

53. The CHAIRMAN invited Mrs. Bayefski to present the study of the United Nations human rights treaty system which she was conducting with Mr. Heyns.

54. Mrs. BAYEFSKI greeted the members of the Committee and said that the study, which was being undertaken in collaboration with the Office of the High Commissioner for Human Rights, would comprise a review of the working methods of the treaty bodies, an analysis of the support and operational mechanisms for the implementation of international instruments, an assessment of the obstacles impeding the optimal functioning of the system and recommendations to improve it.

55. To that end, all the participants in the system - States parties, NGOs, specialized agencies and experts - had been called upon to collaborate and account would be taken of the work already carried out in that field. Case

studies would be undertaken in a number of countries representative of the diversity of perceptions and realities within the United Nations in order to assess the impact of the treaty bodies in terms of ratification, administration and enforcement. The key words in that study were effectiveness, results and quality. Achievement of objectives, respect for decisions concerning individual communications, the attention given to reports and the benefits derived therefrom by the victims of human rights violations would be assessed.

56. The study would develop a methodology to evaluate results based on principles such as accountability, transparency of procedures, independence of committee members, representativeness of the system and its accessibility to potential victims.

57. A set of recommendations would be presented to the Office of the High Commissioner for Human Rights by December 1999.

58. Certain long-standing criticisms gave cause to question the system's responsiveness to changing imperatives and needs. The United Nations treaty system should respond effectively to the international community's expectations in regard to quality, accessibility and efficiency. That was the aim of the study, to which the members of the Committee were invited to contribute.

59. Three questions were of particular concern to her: In what fields did the Committee have the greatest need for assistance? How and at what level did the secretariat need to be strengthened? How could a closer link be established between the treaty system and national and regional activities?

60. The CHAIRMAN invited the members of the Committee to comment on the study.

61. Mr. GARVALOV said that the university study by Professors Bayefski and Heyns would certainly be valuable for the work of the Office of the High Commissioner for Human Rights and the treaty bodies. It should emphasize the fact that the reports containing the decisions of the Committee should be submitted directly to the Secretary-General of the United Nations and the Security Council and that, provided that it was given the means and as it had already done in the case of Kosovo in 1993 for example, the Committee was capable of intervening directly within its field of jurisdiction in order to establish a dialogue between opposing parties. It should also highlight the usefulness and effectiveness of the early warning system and the urgent procedure, these being well-established and unique mechanisms the operation of which should be better known to the Secretariat of the Organization.

62. One of the major problems encountered concerned the measures to be taken to ensure that the States parties implemented fully and in an honest and effective manner the provisions of the international instruments that they had ratified, failing which the universality of those instruments would become a meaningless objective. The study should also assess the effectiveness of the policies and methods which the States parties and the treaty bodies were

applying in order to give effect to the international instruments concerning basic rights. It would be very useful to study that question at international seminars or conferences specially devoted to the treaty bodies.

63. Mr. van BOVEN said that one of the problems encountered was the Committee's isolation since it was based at the United Nations Office at Geneva, far from most of the regions and countries with which it was concerned. The Committee should be in closer contact with the latter and, to that end, would obviously need to be allocated additional financial and material resources. Given the important role that national human rights organizations and groups played in the implementation of international human rights instruments, the non-governmental organizations in the developing countries should also be able to contact the Committee as easily as their counterparts in the developed countries, which was rarely the case.

64. He said that the study should accord special attention to the question of follow-up by the States parties on the Committee's recommendations and conclusions in order to reassure everyone that States were honouring their obligations under the international human rights instruments in a serious and effective manner.

65. The CHAIRMAN, speaking in a personal capacity, endorsed Mr. van Boven's comments concerning the need for the Committee to be in closer contact with the regions and countries with which it was concerned. He also thought that third world countries felt that there was a flagrant lack of impartiality in the international arena which, for example, made it possible to applaud some liberation movements while accusing others of terrorism on the basis of biased and partisan political considerations. Those countries could not understand, for example, why some Governments were supporting the Kurdish nationalists in Iraq and opposing those in Turkey while both were defending the same cause of national independence. This led them to believe that the cause of human rights was often manipulated in the interest of undeclared political aims.

66. For his part, he did not think that there was a need to take new measures or adopt new conventions: there was simply a need to ensure that the existing ones were duly implemented, taking care to treat all the members of the international community on an equal footing, which was not currently the case.

67. Mr. DIACONU said that caution should be exercised. He pointed out that the effectiveness of the treaty bodies depended on the impartiality, objectivity and professionalism of the experts of which they consisted. He thought that every recommendation seeking to improve their functioning should highlight those basic requirements, which needed to be maintained. The experts were subjected to all types of pressure from States, governmental organizations and other parties and would certainly not be able to calmly express a candid opinion if they had to meet within the framework of large conferences attended by hundreds of non-governmental organizations and under the scrutiny of the media.

68. He also pointed out that the members of the Committee should not base their opinions on any principle, criterion or concept, even of a humanitarian nature, other than those set forth in the Convention from which their mandate

was derived. In practice, they could insist that States parties not only allow civil society to participate, through national non-governmental organizations, in the preparation of their periodic reports but also ensure that the Committee's conclusions and recommendations concerning those reports be publicized and followed up. That presupposed a desire on the part of the Committee to seek close collaboration, instead of confrontation, with the States parties, bearing in mind the fact that its links with States, being derived solely from the Convention, were very delicate and needed to be carefully preserved.

69. He believed, like Mr. Garvalov, that the main problem lay in the implementation of the international human rights conventions and the need to ensure a better understanding of their aims, methods and application.

70. Mr. RECHETOV drew attention to several defects in the application of international human rights conventions. Some were attributable to the ideological implications of the conventions which, for example, induced the States of the former communist bloc to systematically state in their reports that there were no human rights violations in their territory, the new society having eradicated that type of problem. Likewise, it was not uncommon for some States parties to claim that their democratic tradition secured them against such violations, that they had adequate legislation and that, consequently, they had no problems in that respect.

71. Other States, after long hesitation, finally acceded to a convention but expressed many reservations that were incompatible with the aims of the instrument. Others, while failing to honour their obligations concerning the presentation of periodic reports, curiously derived a certain prestige therefrom at the United Nations or in regional institutions such as the Council of Europe. Finally, some countries doubted the impartiality of the international system for the protection of human rights, which they suspected of favouring some religious sensitivities. It might be possible to draw on legal texts preceding the Shari'a in order to enrich the present system for the protection of human rights and render it more attractive to third world countries.

72. Mr. FERRERO COSTA said that, like everyone else, he was aware of the heavy burden that the obligation to prepare and submit periodic reports to the various treaty bodies placed on a number of States parties. He nevertheless thought that it would be a mistake to combine the reports to the various treaty bodies since the latter should retain their specificity in accordance with their mandate. On the other hand, consideration might be given to the possibility of requesting States parties to present their reports only once every four years. Financial and manpower resources would also need to be allocated to the Committee in order to enable it to apply more effectively the early warning and urgent procedures that were crucial for the proper discharge of its mandate. In addition, there was a need for follow-up on the conclusions and recommendations of the Committee and, to that end, the latter would need to be endowed with a more permanent secretariat and presided over by a chairman vested with greater executive powers.

73. He too felt that the Committee should endeavour to break out of its isolation by, for example, holding meetings at places other than Geneva. Some

of its members could also attend seminars in various parts of the world and take that opportunity to promote a better understanding of the mission and functions of the Committee.

74. He regretted, in particular, that the international community was not taking adequate advantage of the experience and skills of the members of the Committee to defuse grave crises linked to racial problems. However, it had to be acknowledged that the Convention did not contain any provisions to that effect.

75. Mr. de GOUTTES regretted that the Committee had so little time to devote to such a vast subject and hoped that Mrs. Bayefski and Mr. Heyns would make use of the numerous documents pertinent to the study of the United Nations human rights treaty system.

76. With regard to the Committee's needs, he said that more financial resources and support staff were needed to provide good offices or advisory services in countries in difficulty. The Committee also needed increased resources in order to be able to organize training seminars on human rights and the preparation of periodic reports, which would enable the international community to benefit from the largely underutilized experience of its members. Finally, it needed additional support staff in order to improve not only the consideration of the periodic reports submitted to it but also relations between its secretariat and those of national and regional organizations and in order to maintain direct contacts and exchange information with regional organizations, send its experts into the field and enable representatives of those organizations to appear before it. He was aware that each of those proposals would inevitably run up against the usual problems of funding and manpower.

77. The CHAIRMAN thanked Mrs. Bayefski and Mr. Heyns. Speaking in a personal capacity, he invited them to take careful note of article 11 of the Convention, which stipulated that: "If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee", and to ask themselves why it had never been invoked.

78. Mrs. Bayefski and Mr. Heyns withdrew.

The meeting rose at 1.05 p.m.